




FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**MEMORANDUM**

**TO: The Commissioners  
Staff Director  
Deputy Staff Director  
General Counsel**

**FROM: Office of the Commission Secretary** 

**DATE: August 26, 2002**

**SUBJECT: Statement Of Reasons for MUR 5160**

Attached is a copy of the Statement Of Reasons for MUR 5160 signed by Chairman David M. Mason, Vice Chairman Karl J. Sandstrom, Commissioner Danny L. McDonald, Commissioner Bradley A. Smith, and Commissioner Scott E. Thomas.

This was received in the Commission Secretary's Office on Monday, August 26, 2002 at 10:50 a.m.

cc: Vincent J. Convery, Jr.  
OGC Docket (5)  
Information Division  
Press Office  
Public Disclosure

Attachment



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

*In re* Friends of Giuliani, *et al.*

)  
) MUR 5160  
)

**STATEMENT OF REASONS**

On October 29, 2001, the Office of General Counsel recommended that the Commission, pursuant to the Enforcement Priority System, take no action in MUR 5160 because the matter was less significant relative to other matters pending before the Commission. In lieu of approving this recommendation, the Commission, on November 6, 2001, voted unanimously to find no reason to believe that any of the named Respondents violated any provision of the Federal Election Campaign Act ("FECA") as a result of the activities described in the Complaint underlying this MUR.<sup>1</sup>

**Complaint & Response**

Complainant alleged that he made a \$500 contribution to Friends of Giuliani and, after Mr. Giuliani withdrew his bid for the Senate, received numerous solicitations from various groups. Believing that his name had been provided to these groups by the Giuliani Committee, Complainant contacted the Committee by phone and requested a refund of his contribution and that his name be removed from the mailing lists of these groups. The Committee advised Complainant that it was under no obligation to provide a refund and that the Committee had not given his name to the other groups. Complainant asked the Commission to instruct the Committee to return his contribution and purge his name from the lists of the various groups.

The Committee responded to the Complaint, repeating that it was under no obligation to refund the Complainant's contribution, and asserting that Complainant's name and address had been obtained through its direct mail vendor. In addition, the Committee stated that its direct mail vendor obtained by agreement with the Committee the right to use its mailing list.

Some of the several groups responded. One of these, the Conservative Leadership PAC, responded that it had rented the Committee's mailing list, which evidently included Complainant's name. The Pete Sessions for Congress Campaign Committee replied that it had contracted with a third-party vendor to purchase nationwide donor lists and such were not taken from Commission reports.

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<sup>1</sup> Commissioner Darryl Wold voted to find no reason to believe. Commissioner Toner replaced Commissioner Wold before the issuance of this statement.

### Analysis

Complainant raises two issues: that he did not get a contribution refund upon request and that his name had been provided by the Giuliani Committee to other groups that solicited him. As to the first, the refusal to return a legal contribution upon request is not a FECA violation. See AOs 1996-52 and 1980-30.

As to the second issue, while the FECA prevents the sale or use of individual contributor information taken from FEC-filed reports, 2 U.S.C. § 438 (a)(4), it does not prohibit other arms-length arrangements to use a political committee's donor lists. See AOs 1982-41; 1981-53 and 1981-46. The responses indicate that at least some of the groups obtained Complainant's name via the purchase or rental of mailing lists, two groups appearing to have obtained the Giuliani Committee's list from direct mail vendors. So long as Complainant's name and address was acquired for the usual and normal charge, 11 CFR § 100.7(a)(1)(iii)(A), and not procured from the Commission's disclosure reports, 2 U.S.C. § 438(a)(4), there is no reason to believe any of the named Respondents violated the FECA.

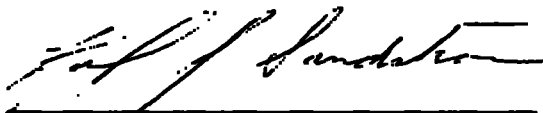
### Conclusion

Complainant did not allege or present facts to suggest any violation of the normal charge regulation or of the commercial use prohibition. He complained rather about the distribution of his name by the Giuliani Committee (or, apparently, by the Committee's direct mail vendor), an activity that appears to have been conducted in a manner permitted under the Act and Commission regulations.

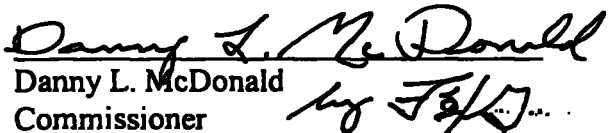
August 27, 2002



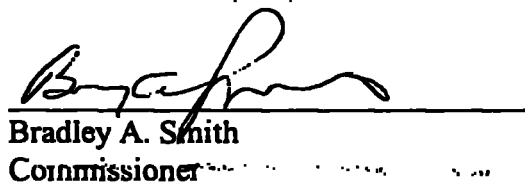
David M. Mason  
Chairman



Karl J. Sandstrom  
Vice Chairman

  
by F&D

Danny L. McDonald  
Commissioner



Bradley A. Smith  
Commissioner



Scott E. Thomas  
Commissioner